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REMARKS

*Perry says you
will be interested
in pages marked
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has received copy -*

Marie

15 APR 1981

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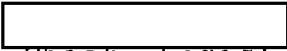
OLC 81-0109/18
15 April 1981

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MEMORANDUM FOR: See Distribution

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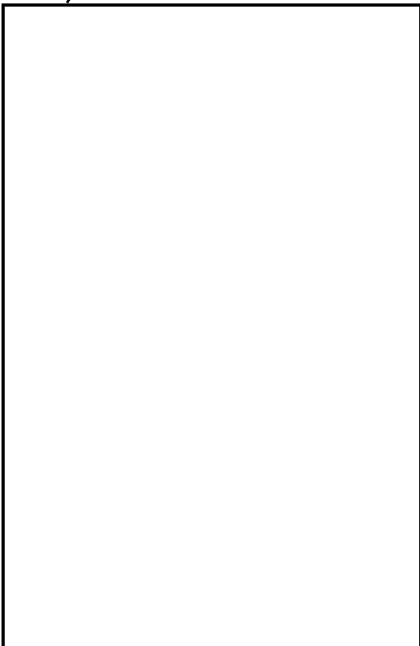
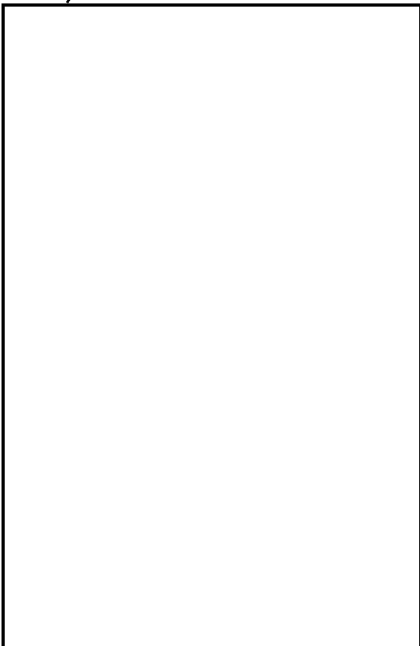
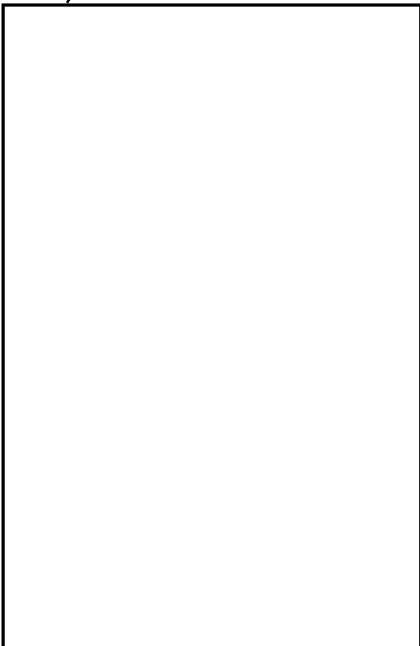
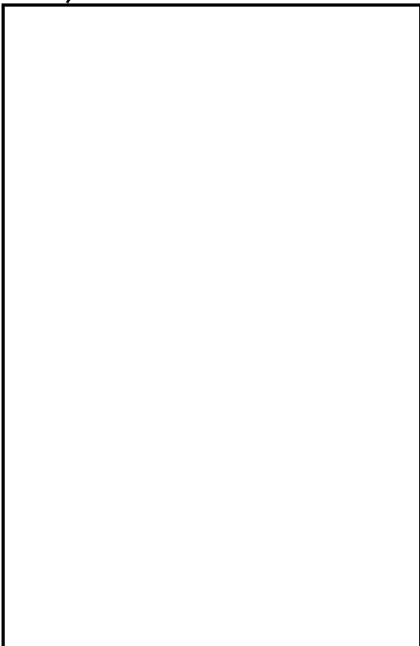
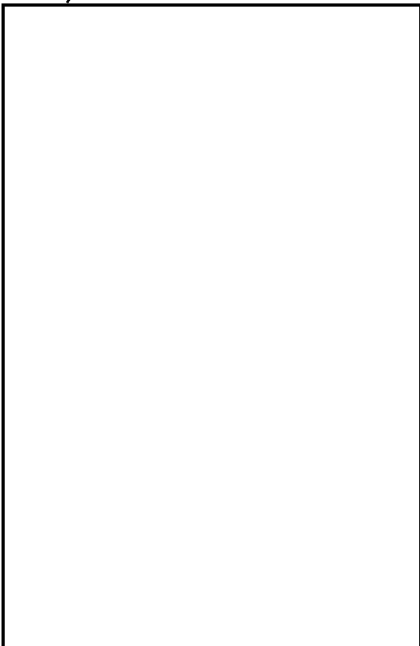
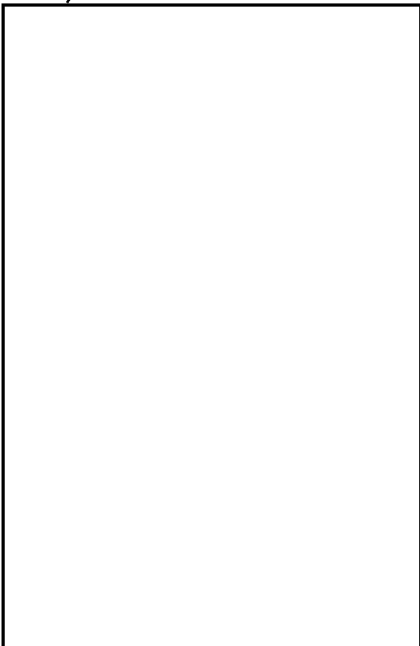
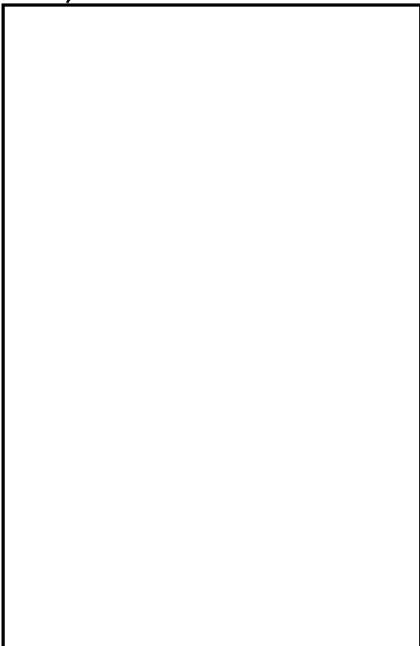
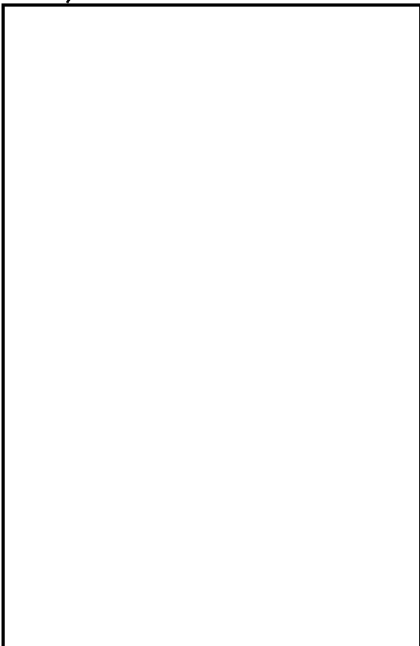
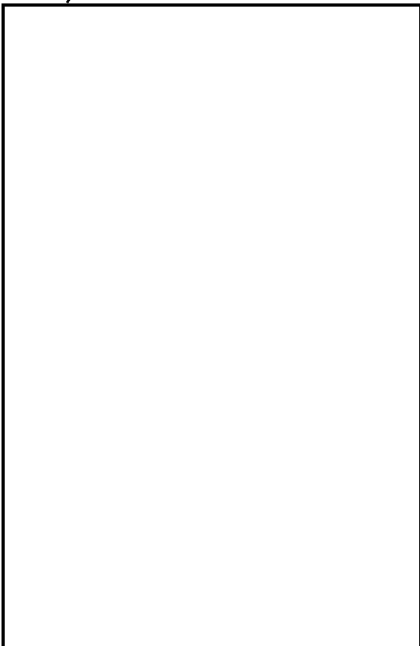
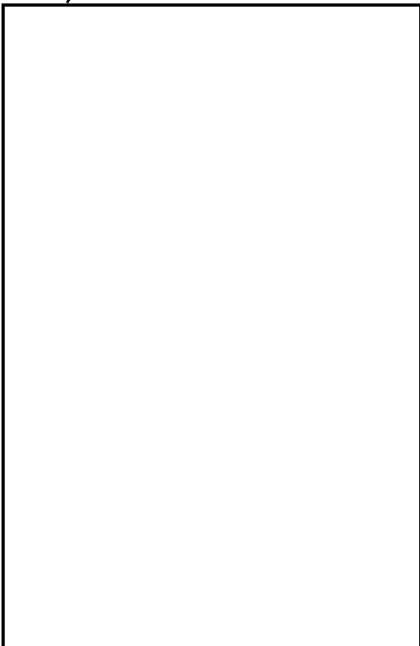
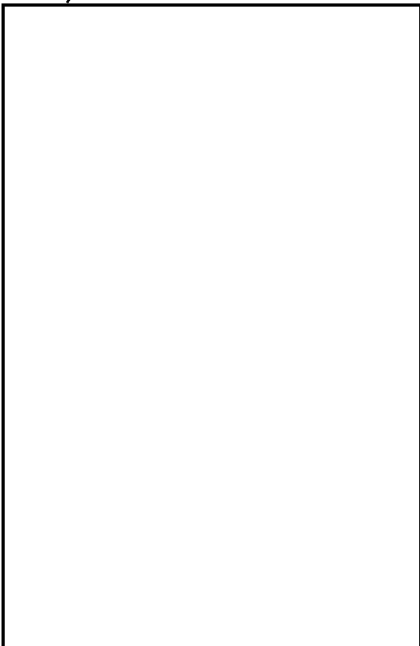
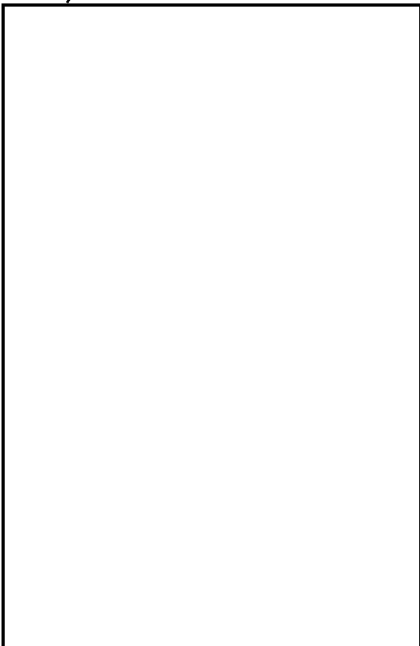
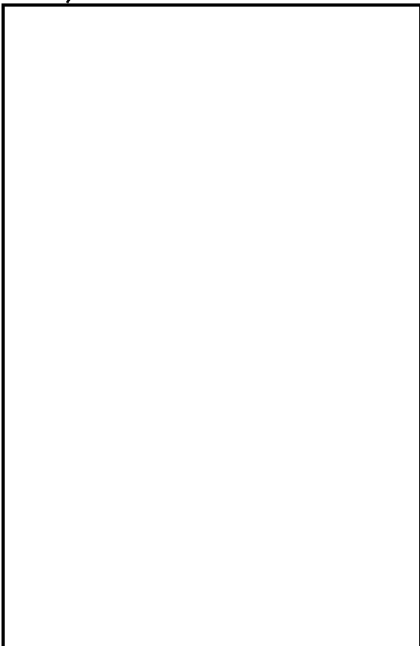
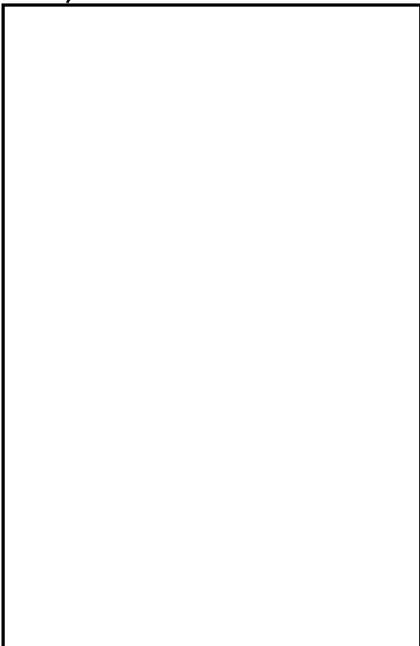
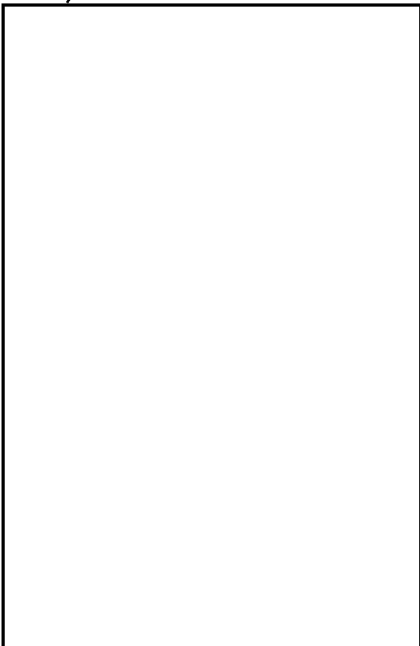
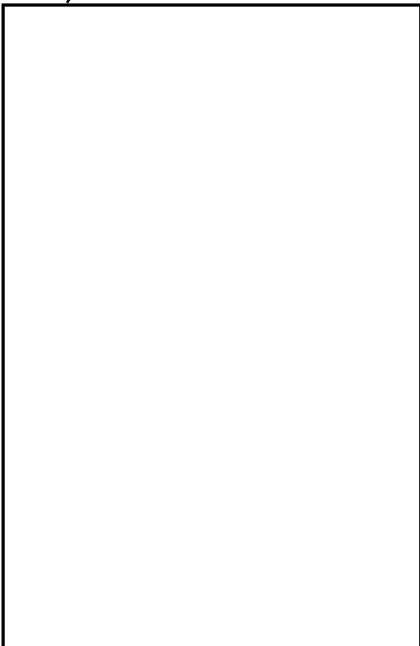

Chief, Legislation Division, OLC

SUBJECT: Fiscal Year 1982 Intelligence
Authorization Bill

Attached for your information is a copy of the
Fiscal Year 1982 Intelligence Authorization Bill as
cleared by the Office of Management and Budget and
officially transmitted to the Congress on 15 April 1981.



Attachment
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15 April 1981

Honorable Thomas P. O'Neill, Jr.
Speaker of the House of
Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

This letter transmits for the consideration of the Congress a draft "Intelligence Authorization Act for Fiscal Year 1982."

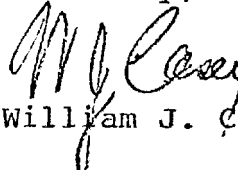
Cooperative efforts by the Executive and Legislative Branches in the authorization process during the past several years reflect the progress that has been made in developing meaningful congressional participation in the oversight of our nation's intelligence apparatus. I am confident that for fiscal year 1982 the Congress will provide the resources needed to ensure the Intelligence Community's ability to monitor the military activities of our adversaries and to provide accurate assessments of the political, economic, and social forces which will shape world affairs in the 1980's.

The draft Intelligence Authorization Act for fiscal year 1982 is accompanied by a detailed sectional analysis which explains changes from the fiscal year 1981 Act and additional new provisions which are designed to implement the President's determination to enhance the nation's intelligence capabilities and promote the more efficient and effective performance of intelligence functions.

I trust that the 97th Congress will also move forward expeditiously with separate legislation to protect intelligence identities and to modify the handling of requests for intelligence information under the Freedom of Information Act. It is essential that we move to better safeguard crucial intelligence sources and methods.

Early and favorable consideration of the draft "Intelligence Authorization Act for Fiscal Year 1982" would be greatly appreciated. The Office of Management and Budget has advised that enactment of this proposed legislation would be in accord with the program of the President.

Sincerely,


William J. Casey

Enclosure

A BILL

To authorize appropriations for fiscal year 1982 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1982."

TITLE I - INTELLIGENCE ACTIVITIES

Authorization of Appropriations

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1982 for the conduct of the intelligence and intelligence-related activities of the following agencies of the United States Government:

- (1) The Central Intelligence Agency.
- (2) The Department of Defense.
- (3) The Defense Intelligence Agency.
- (4) The National Security Agency.
- (5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
- (6) The Department of State.
- (7) The Department of the Treasury.
- (8) The Department of Energy.
- (9) The Federal Bureau of Investigation.
- (10) The Drug Enforcement Administration.

Classified Schedule of Authorizations

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1982, for the conduct of the intelligence and intelligence-related activities of the agencies listed in such section, are those specified in the classified Schedule of Authorizations prepared by the committee of conference to accompany of the 97th Congress. That Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the Executive Branch.

Congressional Notification of Expenditures
in Excess of Program Authorizations

SEC. 103. During fiscal year 1982, funds may not be obligated or expended for any program for which funds are authorized to be appropriated by section 101 in an amount in excess of the amount specified for that program in the classified Schedule of Authorizations described in section 102 unless the Director of Central Intelligence or the Secretary of Defense notifies the appropriate committees of Congress of the intent to make such obligation or expenditure not less than fifteen days before such obligation or expenditure is made.

Conduct of Intelligence Activities

SEC. 104. Nothing contained in this Act shall be deemed to constitute authority for the conduct of any intelligence activity which is prohibited by the Constitution or laws of the United States.

TITLE II - INTELLIGENCE COMMUNITY STAFF

Authorization of Appropriations

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1982 the sum of \$15,413,000.

Authorization of Personnel End-Strength

SEC. 202.(a) The Intelligence Community Staff is authorized 245 full-time equivalent personnel as of September 30, 1982. Such personnel may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1982, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1982, any officer or employee of the United States or member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

Intelligence Community Staff Administered in Same
Manner as Central Intelligence Agency

SEC. 203. During fiscal year 1982, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a-4031) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III - CENTRAL INTELLIGENCE AGENCY RETIREMENT
AND DISABILITY SYSTEM

Authorization of Appropriations

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1982 the sum of \$84,600,000.

TITLE IV - TECHNICAL PROVISIONS

Increases in Employee Benefits Authorized by Law

SEC. 401. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

Compliance with Section 607 of P.L. 93-344, the
Congressional Budget and Impoundment Control Act of 1974

SEC. 402. There are authorized to be appropriated for fiscal year 1983 such sums as may be necessary for the intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability Fund.

Technical Amendments to Section 303 of the
National Security Act of 1947

SEC. 403. (a) Section 303 of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by striking from the last sentence of 50 U.S.C. 405(a) the word "at" and the words which follow, up to and including the word "service,".

(b) Section 303 of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is further amended by striking from 50 U.S.C. 405(b) the section numbers "281, 283, or 284" and inserting in lieu thereof the following section numbers: "203, 205, or 207."

Technical Amendment to Section 5 of the
Central Intelligence Agency Act of 1949

SEC. 404. Section 5 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f) is amended by striking from subsection (d) the words "couriers and guards" and substituting in lieu thereof the word "personnel", and by placing a semicolon before the word "when" and striking the word "when" and the words which follow, up to and including the word "security;".

TITLE V - PROMOTING EFFECTIVE PERFORMANCE
OF INTELLIGENCE FUNCTIONS

Allowances, Benefits, and Travel

SEC. 501.(a) The Director of Central Intelligence is authorized to pay to Central Intelligence Agency officers, employees, detailees, and assignees, and their dependents, allowances and benefits authorized by Chapter 9 of the Foreign Service Act of 1980 (P.L. 96-465) as enacted or subsequently amended, and other allowances and benefits granted by any other provision of law to the Foreign Service. The Director of Central Intelligence may pay additional allowances and benefits, whether or not authorized under any other provision of law, as may be necessary to meet the special requirements of work related to intelligence activities.

(b) Notwithstanding any other provision of law, the Director of Central Intelligence shall have the authority to establish regulations authorizing the travel of Central Intelligence Agency officers, employees, assignees, and detailees engaged in the performance of intelligence functions, to reflect Agency requirements not taken into account in the formulation of government-wide procedures, and to provide for payment therefor.

SEC. 502. Subsection 9(b)(1) of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by striking all that follows the word "under" and substituting in lieu thereof the following:

"Chapter 9 of the Foreign Service Act of 1980 (P.L. 96-465) as enacted or subsequently amended, or under any other provision of law, or by the Director of Central Intelligence to personnel serving in similar circumstances; and"

TITLE VI - PROTECTION OF INTELLIGENCE PERSONNEL
AND INSIGNIA/PROHIBITION OF FALSE
REPRESENTATION

Protection of Intelligence Personnel

SEC. 601.(a) Section 1114 of title 18, United States Code, is amended by inserting the words "or attempts to kill" after the word "kills" and by deleting all that follows the words "law enforcement functions," and substituting in lieu thereof the following:

"or any officer or employee of any department or agency within the Intelligence Community (as defined in section 4-207 of Executive Order 12036, January 24, 1978, or successor orders), not already covered under the terms of this section, or any attorney, liquidator, examiner, claim agent, or other employee of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Board of Governors of the Federal Reserve System, any Federal Reserve bank, or the National Credit Union Administration while engaged in the performance of his official duties or on account of the performance of his official duties, shall be punished as provided under sections 1111 and 1112 of this title, except that any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years."

(b) Chapter 51 of Title 18, United States Code, is amended by adding at the end thereof the following new provision:

"§1118. Murder, manslaughter, assaults, threats, extortion, or kidnapping of persons given entry into the United States for permanent residence pursuant to the provisions of section 403h, title 50, United States Code

(a) Whoever kills or attempts to kill a person given entry into the United States for permanent residence pursuant to the provisions of section 403h of title 50, United States Code, shall be punished as provided under sections 1111, 1112, and 1113 of this title, except that any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years.

(b) Whoever engages in conduct proscribed by sections 112, 878, or 1201 of this title against any person described in subsection (a) shall be punished as provided under those sections."

(c) Chapter 51 of Title 18, United States Code, is amended by adding at the end thereof the following new provision:

"§1119. Murder, manslaughter, assaults, threats, extortion, or kidnapping of persons present in the United States under intelligence auspices

(a) Whoever kills or attempts to kill a person certified by the Director of Central Intelligence or his designees to be present in the United States under the auspices of any department or agency within the Intelligence Community (as defined in section 4-207 of Executive Order 12036, January 24, 1978, or successor orders) shall be punished as provided under sections 1111, 1112, and 1113 of this title, except that any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years.

(b) Whoever engages in conduct proscribed by sections 112, 878, or 1201 of this title against any person described in subsection (a) shall be punished as provided under those sections."

Unauthorized Use of Central Intelligence Agency
Name, Initials, or Seal/Impersonation of
Intelligence Personnel

SEC. 602. The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a-4031) is amended by adding at the end thereof the following new section:

"MISUSE OF AGENCY NAME, INITIALS, OR SEAL

"SEC. 13.(a) No person shall, except with the written permission of the Director, knowingly use the words 'Central Intelligence Agency', or the initials 'C.I.A.', or the seal of the Central Intelligence Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Central Intelligence Agency.

"(b) Whenever it shall appear to the Attorney General that any person is engaged or about to engage in any acts or practices which constitute or will constitute conduct prohibited by subsection (a) of this section, the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin any such acts or practices. The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted to prevent injury to the United States or to any person or class of persons for whose protection the action is brought. A proceeding under this section shall be governed by the Federal Rules of Civil Procedure."

Unauthorized Use of National Security Agency
Name, Initials, or Seal/Impersonation of
Intelligence Personnel

SEC. 603. The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by adding at the end thereof the following new section:

"MISUSE OF AGENCY NAME, INITIALS, OR SEAL

"SEC. 12.(a) No person shall, except with the written permission of the Director of the National Security Agency, knowingly use the words 'National Security Agency', or the initials 'N.S.A.', or the seal of the National Security Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the National Security Agency.

"(b) Whenever it shall appear to the Attorney General that any person is engaged or about to engage in any acts or practices which constitute or will constitute conduct prohibited by subsection (a) of this section, the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin any such acts or practices. The court shall proceed as soon as practicable to the hearing and determination, enter such restraining orders or prohibitions, or take such other action as is warranted to prevent injury to the United States or to any person or class of persons for whose protection the action is brought. A proceeding under this section shall be governed by the Federal Rules of Civil Procedure."

TITLE VII - AMENDMENTS TO THE FOREIGN INTELLIGENCE
SURVEILLANCE ACT

Physical Entry for the Purpose of
Implementing an Electronic Surveillance
Under Section 102(a) of the Act

SEC. 701. Subsection 102(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding the following new provision:

"(5) The Attorney General may authorize physical entry of property under the open and exclusive control of a foreign power, as defined in subsections 101(a)(1), (2), or (3), for the purpose of installing, repairing, or removing any electronic, mechanical, or other surveillance device used in conjunction with an electronic surveillance authorized in accordance with subsection 102(a)."

Modification of Targeting
Standards Pertaining to
Agents of Foreign Powers

SEC. 702. Subsection 101(b)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by deleting "or" at the end of (C), changing the period at the end of (D) to a semicolon, adding "or" at the end of (D), and adding the following new provision:

"(E) is a current or former senior official of a foreign power as defined in subsection (a)(1) or (2)."

Extension of the Emergency
Surveillance Period

SEC. 703. Subsection 105(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by deleting "twenty-four" wherever it appears and inserting in lieu thereof "forty-eight."

Dissemination of Certain
Life Threatening Communications

SEC. 704.(a) Subsection 105(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting in line five, following the words "Attorney General," the phrase "and which, except as otherwise provided in paragraph (4), is intended".

(b) Subsection 105(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is further amended by adding the following new paragraph (4) immediately following paragraph (3)(C):

"(4) Notwithstanding any other provision of this subsection, any information acquired under this subsection which indicates a threat of death or serious bodily harm may, with notice to the Attorney General, be retained and disseminated to appropriate law enforcement or security agencies."

INTELLIGENCE AUTHORIZATION ACT FOR
FISCAL YEAR 1982

SECTIONAL ANALYSIS
AND
EXPLANATION

TITLE I

INTELLIGENCE ACTIVITIES

Section 101 lists the departments, agencies, and other elements of the United States Government for whose intelligence and intelligence-related activities the Act authorizes appropriations for fiscal year 1982.

Section 102 makes clear that details of the amounts authorized to be appropriated for intelligence and intelligence-related activities and personnel ceilings covered under this title for fiscal year 1982 are contained in a classified Schedule of Authorizations. The Schedule of Authorizations is incorporated into the Act by this section.

Section 103 provides that the program ceilings specified in the Schedule of Authorizations are intended to be limitations on obligations and expenditures. The section requires that funds obtained from any source, whether direct appropriations, transfers, reprogrammings, etc., not be obligated in excess of the program levels specified in the Schedule except by notification. The section is not intended to alter existing arrangements worked out over many years between the Executive Branch and the Committees on Armed Services and Appropriations regarding notification for prior approval, dollar thresholds by appropriation category, etc. These arrangements have been adhered to by the Executive Branch and the Permanent Select Committee on Intelligence for intelligence matters and will continue to be. The purpose of section 103 is to allow for reprogramming and transfer actions which exceed one or more individual program authorization ceilings without creating the need for supplemental authorization but, at the same time, assuring that such actions are made in consultation with the oversight and appropriations committees.

Section 104 makes clear that, with the exception of any specific legislative authorities which may be contained in the Intelligence Authorization Act for Fiscal Year 1982, the Act is intended only to authorize appropriations and does not constitute authority for the conduct of any intelligence activity prohibited by the Constitution or laws of the United States.

TITLE II

INTELLIGENCE COMMUNITY STAFF

Section 201 authorizes appropriations for the Intelligence Community Staff, which provides the Director of Central Intelligence with staff assistance to carry out his Intelligence Community responsibilities.

Subsection 202(a) authorizes personnel end strength for the Intelligence Community Staff, and provides that personnel may be permanent employees of the Staff or detailed from various elements of the United States Government.

Subsection 202(b) requires that detailed employees be selected so as to provide appropriate representation from the various departments and agencies engaged in intelligence and intelligence-related activities.

Subsection 202(c) requires that personnel be detailed on a reimbursable basis except for temporary situations.

Section 203 provides that the Director of Central Intelligence shall utilize existing statutory authority to manage the activities and to pay the personnel of the Intelligence Community Staff. This language reaffirms the statutory authority of the Director of Central Intelligence and clarifies the legal status of the Intelligence Community Staff. In the case of detailed personnel it is understood that the authority of the Director of Central Intelligence to discharge personnel extends only to discharge from service at the Intelligence Community Staff and not from federal employment or military service.

TITLE III

CENTRAL INTELLIGENCE AGENCY
RETIREMENT AND DISABILITY SYSTEM

Section 301 authorizes fiscal year 1982 appropriations
for the Central Intelligence Agency Retirement and Disability
Fund.

TITLE IV

TECHNICAL PROVISIONS

Section 401 provides authority for adjustments to federal employee compensation and benefits during fiscal year 1982 which are increased by current or subsequently enacted law. The section obviates the necessity for separate authorizations for such increases during the fiscal year.

Section 402 brings the intelligence and intelligence-related activities authorization of appropriations process into technical compliance with section 607 of P.L. 93-344, the Congressional Budget and Impoundment Control Act of 1974, which requires that appropriations be authorized in the calendar year prior to the year in which the fiscal year begins.

Subsection 403(a) eliminates the phrase "at a rate not to exceed \$50 for each day of service," from the last sentence of 50 U.S.C. 405(a). This is an amendment to section 303 of the National Security Act of 1947 (50 U.S.C. 401 et seq.), which, prior to the passage of the Central Intelligence Agency Act of 1949, provided the Director of Central Intelligence with specific authority to employ part-time advisory personnel to serve on advisory panels and committees. The provision has remained on the books with a maximum daily pay rate set at \$50, despite the subsequent enactment of section 8 of the CIA Act (U.S.C. 403j) which authorizes the expenditure of funds for personal services as necessary to carry out CIA functions, notwithstanding other provisions of law. This statutory authority serves as the CIA charter to employ its personnel, "without regard to limitations on types of persons to be employed," and to obtain the additional personal services of experts, consultants, and other independent contractors.

The anomaly that has existed over the years as a result of the duplicative presence of the broad authority of section 8 to hire and pay experts and consultants, and the more limited authority with respect to experts and consultants found at 50 U.S.C. 405, is clarified by the amendment in order to ensure that all experts and consultants are paid on the basis of uniform standards and policies.

The proposed amendment is fully consistent with government-wide personnel policies. Previously existing provisions with respect to a \$50 per day limit for the compensation of advisory committee members by other government agencies have been superseded by the provisions of the Federal Advisory Committee Act (5 U.S.C. Appendix I). That Act, which exempts the CIA and the Federal Reserve System from its coverage because of public disclosure provisions, provides that advisory committee members shall receive compensation at a rate not to exceed the rate specified for GS-18 of the General Schedule. Despite its exemption, the Central Intelligence Agency generally adheres to this limitation in the compensation of its experts and consultants pursuant to its section 8 authorities.

Subsection 403(b) amends section 303 of the National Security Act of 1947 (50 U.S.C. 401 et seq.) by deleting from 50 U.S.C. 405(b) the numbers "281," "283," and "284" and substituting in lieu thereof the numbers "203," "205," and "207." This change merely reflects current law, since sections 281, 283, and 284 of title 18, United States Code, have been repealed and replaced by sections 203, 205, and 207 respectively.

Section 404 substitutes the word "personnel" for the words "couriers and guards" in section 5(d) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f), and eliminates the phrase "when engaged in transportation of confidential documents and materials affecting the national defense and security". This amendment will provide legislative clarification of the Agency's authority to its personnel for purposes which would include, for example, the protection of documents and materials which are not being transported, the protection of certain Agency facilities from physical penetration, the protection of certain Agency personnel, and the protection of defectors or foreign persons visiting the United States under the Agency's auspices who may be targets of assassination or abduction attempts.

The inherent authority of the sovereign and the right of self defense of the individual, along with the other sources of authority cited below, support the implicit authority of the Central Intelligence Agency to authorize its personnel to carry firearms. Pursuant to the National Security Act, National Security Council directives and memoranda have generally authorized the Agency to take necessary action in the interest of national security to protect CIA functions and personnel, and otherwise carry out the Agency's foreign intelligence responsibilities. In addition to these directives and memoranda, such authority further derives from 50 U.S.C. 403(d)(3) which provides that: "...the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure."

The Agency's personnel authority also authorizes such arming. This authority, at 50 U.S.C. 403j, authorizes the Agency to expend sums notwithstanding other laws for purposes necessary to carry out its functions and particularly for personal services without regard to limitations on types of persons to be employed. More recently, President Carter in Executive Order 12036 assigned to the CIA the responsibility to "Protect the security of its installations, activities, information, and personnel by appropriate means...."

Taken together, these authorities clearly support established policy that the Central Intelligence Agency, as an instrumentality of the sovereign, may authorize its personnel to carry firearms in appropriate circumstances to protect its functions and personnel, and to carry out its responsibilities under law.

The proposed amendment is designed to obviate any concern that the limited specific authority contained in 50 U.S.C. 403f could be construed as restrictive. Clarification of the Agency's firearms authority would be particularly useful in simplifying any legal proceedings which might result in the event that Agency personnel were forced to use firearms in the course of their official duties.

TITLE V

PROMOTING EFFECTIVE PERFORMANCE
OF INTELLIGENCE FUNCTIONS

Subsections 501(a) and (b) supplement the expenditure authority of the Director of Central Intelligence under the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a-4031). The purpose of the provisions is to promote the more efficient and effective performance of intelligence functions.

Subsection 501(a) will ensure that all of the benefits and allowances provided to the Foreign Service are available to Central Intelligence Agency personnel. Subsection 501(a) will also ensure that allowances and benefits available to Central Intelligence Agency personnel do not lag behind those afforded to the Foreign Service in the future. This provision will serve to help eliminate inequities that have caused morale problems and have also served as indicators which have aided individuals bent on destroying the foreign intelligence capabilities of the United States in their efforts to identify intelligence officers serving under cover.

Subsection 501(a) will provide the Director of Central Intelligence with greater flexibility to deal with the special requirements of work related to intelligence activities. At a time in which the provision of accurate intelligence to policymakers is increasingly crucial, but when disincentives to overseas service are so dramatically on the rise, it is essential that the Director of Central Intelligence have the flexibility to act quickly in the allowances and benefits area to meet the special requirements of work related to intelligence activities. Dramatic political changes, for example, may require decisive action and unforeseen expenditures to ensure the effective performance of intelligence functions and to protect intelligence personnel and their families. Subsection 501(a) will enable the Director to provide appropriate benefits and allowances where the special requirements of intelligence work give rise to circumstances not adequately addressed by other law. This portion of subsection 501(a) is intended for use in a prudent manner. The Director of Central Intelligence will be particularly sensitive to the fact that differences in allowances and benefits among government personnel serving in comparable circumstances can create morale problems. It is also recognized that care must be taken to ensure that subsection 501(a) is not employed in a manner that would have the effect of assisting in the unauthorized disclosure of the identities of intelligence personnel.

Subsection 501(b) would promote the more efficient and effective performance of intelligence functions by enabling the Director of Central Intelligence to establish regulations for travel which reflect Agency requirements not taken into account in the formulation of government-wide procedures. The Agency now has authority to promulgate regulations administering overseas travel. In view of problems associated with government-wide provisions of law governing domestic travel, it would be extremely beneficial for the Agency to have explicit authority to establish domestic travel regulations. Government-wide procedures have not taken into account the special requirements of intelligence work. The need to maintain cover, transport classified material, or accompany defectors or foreign visitors under sensitive circumstances, for example, creates requirements that are extremely difficult to deal with in the context of government-wide regulations and documentation procedures which were not designed with such considerations in mind.

Subsections 501(b) would provide the needed remedy by enabling the DCI to establish travel regulations which reflect Agency requirements. The effect of this provision will be one of long-run cost savings, resulting from better designed and more efficient travel regulations for CIA personnel.

Section 502 would amend a benefits and allowances provision that was added last year to the National Security Agency Act of 1959, and that applies to designated Department of Defense cryptologic personnel. The provision became law before enactment of the Foreign Service Act of 1980, and refers to sections of the Foreign Service Act of 1946. Although the Foreign Service Act of 1980 contains a savings clause for such references to the Act of 1946, ambiguities have arisen because of differences in scope and subject matter between the corresponding sections in the Acts of 1946 and 1980. Section 502 would eliminate this problem by deleting from subsection 9(b)(1) of the National Security Agency Act of 1959 references to the Foreign Service Act of 1946 and substituting a reference to the Act of 1980. Section 502 would also ensure that designated Department of Defense cryptologic personnel can receive benefits and allowances comparable to those provided to their Central Intelligence Agency counterparts serving under similar circumstances.

TITLE VI

PROTECTION OF INTELLIGENCE PERSONNEL AND INSIGNIA/
PROHIBITION OF FALSE REPRESENTATION

Subsection 601(a) amends section 1114 of title 18, United States Code, to make the murder or manslaughter of an officer or employee of the Intelligence Community a federal crime, if the officer or employee was performing his official duties when the act was committed, or if the act was committed on account of the performance of his official duties. Inclusion of the phrase "not already covered under the terms of this section" takes cognizance of the fact that the intelligence element of one entity within the Intelligence Community, the Federal Bureau of Investigation, is already covered under current law, which includes a broad spectrum of federal officers and employees. The amendment corrects a serious and incongruous omission in current law by giving officers and employees of the Intelligence Community the protection of 18 U.S.C. 1114. The amendment defines Intelligence Community as in section 4-207 of Executive Order 12036 ("United States Intelligence Activities," 24 January 1978) or its successors. The amendment would also enlarge the protections afforded all of the agencies, departments and officials listed in section 1114 of title 18 by extending federal jurisdiction to include attempted murder, which would be punishable by imprisonment for not more than twenty years. In addition, inclusion in 18 U.S.C. 1114 of "officers or employees of any department or agency within the Intelligence Community" automatically extends to such individuals, by statutory reference, the protections afforded under 18 U.S.C. 111, "assaulting, resisting, or impeding certain officers or employees [of the United States]."

Subsection 601(b) amends Chapter 51 of title 18, United States Code, by adding a new section 1118 entitled "Murder, manslaughter, assaults, threats, extortion, or kidnapping of persons given entry into the United States for permanent residence pursuant to the provisions of section 403h, title 50, United States Code." The amendment encompasses persons present in the United States under the provisions of section 7 of the Central Intelligence Agency Act of 1949, 50 U.S.C. 403h.

Persons who have been given entry into the United States under the provisions of 50 U.S.C. 403h are admitted to permanent residence because of their special contributions to the national intelligence mission. These are persons who have worked to further the national security interests of the United States in foreign countries, placing their

careers and lives in jeopardy. These individuals, who may have been clandestine intelligence agents, sources or defectors, often reside in the U.S. under assumed identities and sometimes continue to provide ongoing assistance to the foreign intelligence activities of the United States. Subsection (a) of proposed section 1118 would make the murder, manslaughter, or attempted murder of such individuals a federal crime and would fix punishment for the criminal acts. Subsection (b) of proposed section 1118 would make conduct proscribed by sections 112, 878, and 1201 of title 18 federal criminal offenses when such conduct is directed against persons in the United States under the provisions of 50 U.S.C. 403h. Offenses which would be covered include assaults, threats, extortion, and kidnapping.

Persons given entry into the United States pursuant to the provisions of 50 U.S.C. 403h merit the protection of federal jurisdiction over certain criminal acts directed against them. Such acts may be directed against these persons precisely because of the activities which led to their having been given entry into the United States under 50 U.S.C. 403h, and federal jurisdiction is thus in the national security interest of the United States. It is contemplated that federal jurisdiction will be invoked only where there is reason to believe that there is, in fact, a connection between an individual's status as a person admitted pursuant to 50 U.S.C. 403h (or the events that gave rise to such status) and the conduct directed against such person.

Subsection 601(c) amends Chapter 51 of title 18, United States Code, by adding a new section 1119 entitled "murder, manslaughter, assaults, threats, extortion, or kidnapping of persons present in the United States under intelligence auspices." The proposed amendment encompasses citizens or nationals of a foreign country certified by the Director of Central Intelligence or a designee to be present in the U.S. under the auspices of a department or agency of the Intelligence Community.

Persons in the United States under the auspices of departments or agencies within the Intelligence Community generally include foreign nationals whose temporary presence in the United States furthers United States intelligence objectives. This category of individuals could include intelligence sources, members of foreign intelligence services, and foreign nationals working abroad for the United States. According such persons the protection of federal jurisdiction over certain criminal acts directed against them is in the national security interest of the United States.

Subsection (a) of proposed section 1119 would make the murder, manslaughter, or attempted murder of such individuals a federal crime and would fix punishment for the criminal acts. Subsection (b) of proposed section 1119 would make conduct proscribed by sections 112, 878, and 1201 of title 18 federal criminal offenses when such conduct is directed against a person present in the United States under intelligence auspices. Offenses which would be covered include assaults, threats, extortion, and kidnapping.

Section 602 amends the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a-4031) so as to afford the Central Intelligence Agency name, initials and seal protection against false advertising or misuse similar to that which 18 U.S.C. 709 presently provides to a host of federal agencies. This amendment corrects an incongruous omission in current law. The mission and function of the CIA are clearly as important and as sensitive as those of the FBI and of the other departments and agencies presently protected. In light of past abuses of authority ascribed to the CIA, moreover, it is particularly imperative that the integrity of the Agency's name and initials be preserved and protected from any possible misuse.

Section 603 amends the National Security Agency Act of 1959 (50 U.S.C. 402 note) so as to afford the National Security Agency name, initials and seal the same protection provided to the CIA name, initials and seal in section 602.

TITLE VII

AMENDMENTS TO THE
FOREIGN INTELLIGENCE
SURVEILLANCE ACT
(FISA)

Section 701 amends subsection 102(a) of the FISA by adding a new provision which would clarify existing law by expressly allowing the Attorney General to authorize, without a court order, physical entry of property or premises under the open and exclusive control of certain types of foreign powers, for the purpose of implementing an electronic surveillance under subsection 102(a). The provisions of subsection 102(a) for a narrow category of surveillances without a court order do not specifically make reference to physical entry for the purpose of installing, repairing, or removing surveillance devices. The purpose of the amendment is to clarify the law to ensure that lawful surveillances are not frustrated by uncertainty over such physical entry authority. The amendment would not authorize physical entry without a court order for any purpose other than the installation, repair, or removal of devices used for the narrow category of electronic surveillances that may be directed against certain types of foreign powers pursuant to the Attorney General's certification under subsection 102(a) of the FISA.

Section 702 remedies a deficiency which was not foreseen when the FISA was enacted. Section 602 amends subsection 101(b)(2) of the FISA by modifying the targeting standards pertaining to agents of foreign powers so as to permit electronic surveillance of dual nationals who occupy senior positions in the government or military forces of foreign governments or factions while simultaneously retaining U.S. citizenship, and of former senior officials whether or not they are acting in the United States as members of a foreign government or faction. Experience under the FISA has shown that this amendment is necessary to avoid the repetition of situations which have resulted in the loss of significant foreign intelligence information.

Section 703 amends subsection 105(e) of the FISA by changing from 24 to 48 hours the time limit on electronic surveillance that may be authorized without a court order in an emergency situation pursuant to that subsection. Extension of the emergency surveillance period would aid in ensuring that there is sufficient time to accomplish the administrative steps necessary for submission of applications to the FISA court without running the risk of having to terminate an emergency surveillance under the terms of the Act. The

change would not affect provisions which require subsequent court review of emergency surveillances and which restrict the use of information obtained from any such surveillance which the court disapproves.

Section 704 amends subsection 105(f) of the FISA to allow the dissemination to law enforcement or security agencies, with notice to the Attorney General, of protected communications unintentionally acquired during the testing of or training in the use of electronic surveillance equipment or during the conduct of audio countermeasures activities (including testing and training), for the sole purpose of protecting any person from the threat of death or serious bodily harm. Under existing law, the dissemination of such information to protect life would be prohibited, and this amendment merely provides a disclosure exception for such situations. This amendment recognizes that the conduct of audio countermeasures, as well as testing and training with other electronic surveillance equipment, could result in the acquisition of a life threatening communication. While such a result is unlikely, it is technically possible; and the FISA should not be a legal impediment to the use of that information by proper authorities. Under the present provisions of the FISA, such a communication could not lawfully be used or disseminated in any manner; and the technician or trainee would have to violate Federal law if he were to use the information in an attempt to save a life. Realizing this potential, it is unconscionable for the government to continue to make a crime of such a life-saving use of information, and it would be more unconscionable if the government were to ignore the opportunity to prevent a crime of violence because the threat was contained in a protected communication.

INTELLIGENCE AUTHORIZATION ACT FOR
FISCAL YEAR 1982

CHANGES IN EXISTING LAW

Note: Where applicable, changes in existing law are shown as follows: existing law in which no change is proposed is shown in roman; existing law proposed to be struck is enclosed in brackets; new material is underscored.

TITLE I

INTELLIGENCE ACTIVITIES

Section 101: No substantive change.

Section 102: No substantive change.

Section 103: No substantive change.

Section 104: Nothing contained in this Act shall be deemed to constitute authority for the conduct of any intelligence activity which is [not otherwise authorized] prohibited by the Constitution or laws of the United States.

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TITLE IV
TECHNICAL PROVISIONS

Section 401: No substantive change (section 408 of the fiscal year 1981 Act).

Section 402: New provision.

Subsection 403(a): Amends the last sentence of 50 U.S.C. 405(a) as follows:

"Other members of such committees and other part-time advisory personnel so employed may serve without compensation or may receive compensation [at a rate not to exceed \$50 for each day of service,] as determined by the appointing authority."

Subsection 403(b): Amends 50 U.S.C. 405(b) so as to substitute current statutory references for sections which have been repealed.

Section 404: Amends 50 U.S.C. 403f as follows:

"(d) Authorize [couriers and guards] personnel designated by the Director to carry firearms; [when engaged in transportation of confidential documents and materials affecting the national defense and security;]"

TITLE V

PROMOTING EFFECTIVE PERFORMANCE
OF INTELLIGENCE FUNCTIONS

Subsection 501(a): New provision.

Subsection 501(b): New provision.

Section 502: Amends subsection 9(b)(1) of the National Security Agency Act of 1959 (50 U.S.C. 402 note) as follows:

"(b) The Director of the National Security Agency, on behalf of the Secretary of Defense, may provide to certain civilian and military personnel of the Department of Defense who are assigned to special cryptologic activities outside the United States and who are designated by the Secretary of Defense for the purposes of this subsection --

"(1) allowances and benefits comparable to those provided by the Secretary of State to officers and employees of the Foreign Service under [paragraphs (1), (2), (7), (9), (10), and (11) of section 911, and under sections 912, 914, 933, 941, 942, and 945, of the Foreign Service Act of 1946 (22 U.S.C. 1136 (1), (2), (7), (9), (10), (11), 1137, 1138(a), 1148, 1156, 1157, 1160); and] Chapter 9 of the Foreign Service Act of 1980 (P.L. 96-465) as enacted or subsequently amended, or under any other provision of law, or by the Director of Central Intelligence to personnel serving in similar circumstances; and"

TITLE VI

PROTECTION OF INTELLIGENCE
PERSONNEL AND INSIGNIA/
PROHIBITION OF FALSE REPRESENTATION

Subsection 601(a): Amends 18 U.S.C. 1114 as follows:

"Whoever kills or attempts to kill any judge of the United States, any United States Attorney, any Assistant United States Attorney, or any United States marshal or deputy marshal or person employed to assist such marshal or deputy marshal, any officer or employee of the Federal Bureau of Investigation of the Department of Justice, any officer or employee of the Postal Service, any officer or employee of the secret service or of the Drug Enforcement Administration, any officer or enlisted man of the Coast Guard, any officer or employee of any United States penal or correction institution, any officer, employee or agent of the customs or of the internal revenue or any person assisting him in the execution of his duties, any immigration officer, any officer or employee of the Department of Agriculture or of the Department of the Interior designated by the Secretary of Agriculture or the Secretary of the Interior to enforce any Act of Congress for the protection, preservation, or restoration of game and other wild birds and animals, any employee of the Department of Agriculture designated by the Secretary of Agriculture to carry out any law or regulation, or to perform any function in connection with any Federal or State program or any program of Puerto Rico, Guam, The Virgin Islands of the United States, or the District of Columbia, for the control or eradication or prevention of the introduction or dissemination of animal diseases, any officer or employee of the National Park Service, any officer or employee of, or assigned to duty in, the field service of the Bureau of Land Management, or any officer or employee of the Indian field service of the United States, or any officer or employee of the National Aeronautics and Space Administration directed to guard and protect property of the United States under the administration and control of the National Aeronautics and Space Administration, any security officer of the Department of State or the Foreign Service, or any officer or employee of the Department of Health, Education, and Welfare, the Consumer Product Safety Commission, the Department of Commerce, or the Department of Labor or of

the Department of the Interior, or of the Department of Agriculture assigned to perform investigative, inspection, or law enforcement functions, [while engaged in the performance of his official duties, or on account of the performance of his official duties,] or any officer or employee of any department or agency within the Intelligence Community (as defined in section 4-207 of Executive Order 12036, January 24, 1978, or successor orders), not already covered under the terms of this section, or any attorney, liquidator, examiner, claim agent, or other employee of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Board of Governors of the Federal Reserve System, any Federal Reserve bank, or the National Credit Union Administration while engaged in the performance of his official duties, or on account of the performance of his official duties shall be punished as provided under section 1111 and 1112 of this title [.] , except that any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years."

Subsection 601(b): New provision.

Subsection 601(c): New provision.

Section 602: New provision.

Section 603: New provision.

TITLE VII

AMENDMENTS TO THE FOREIGN
INTELLIGENCE SURVEILLANCE ACT
(FISA)

Section 701: Adds the following new provision to subsection 102(a) of the FISA:

"(5) The Attorney General may authorize physical entry of property under the open and exclusive control of a foreign power, as defined in subsections 101(a)(1), (2), or (3), for the purpose of installing, repairing, or removing any electronic, mechanical, or other surveillance device used in conjunction with an electronic surveillance authorized in accordance with subsection 102(a)."

Section 702: Modifies the definition of "agent of a foreign power" contained in subsection 101(b)(2) of the FISA as follows:

"(2) any person who --

(A) knowingly engages in clandestine intelligence gathering activities for or on behalf of a foreign power, which activities involve or may involve a violation of the criminal statutes of the United States;

(B) pursuant to the direction of an intelligence service or network of a foreign power, knowingly engages in any other clandestine intelligence activities for or on behalf of such foreign power, which activities involve or are about to involve a violation of the criminal statutes of the United States;

(C) knowingly engages in sabotage or international terrorism, or activities that are in preparation therefor, for or on behalf of a foreign power; [or]

(D) knowingly aids or abets any person in the conduct of activities described in subparagraph (A), (B), or (C) or knowingly conspires with any person to engage in activities described in subparagraph (A), (B), or (C) [.] or

(E) is a current or former senior official of a foreign power as defined in subsection (a)(1) or (2)."

Section 703: Amends subsection 105(e) of the FISA as follows:

(e) Notwithstanding any other provision of this title, when the Attorney General reasonably determines that --

(1) an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before an order authorizing such surveillance can with due diligence be obtained; and

(2) the factual basis for issuance of an order under this title to approve such surveillance exists;

he may authorize the emergency employment of electronic surveillance if a judge having jurisdiction under section 103 is informed by the Attorney General or his designee at the time of such authorization that the decision has been made to employ emergency electronic surveillance and if an application in accordance with this title is made to that judge as soon as practicable, but not more than [twenty-four] forty-eight hours after the Attorney General authorizes such surveillance. If the Attorney General authorizes such emergency employment of electronic surveillance, he shall require that the minimization procedures required by this title for the issuance of a judicial order be followed. In the absence of a judicial order approving such electronic surveillance, the surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of [twenty-four] forty-eight hours from the time of authorization by the Attorney General, whichever is earliest. In the event that such application for approval is denied, or in any other case where the electronic surveillance is terminated and no order is issued approving the surveillance, no information obtained or evidence derived from such surveillance shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such surveillance shall subsequently be used or disclosed in any other manner by federal officers or employees

without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person. A denial of the application made under this subsection may be reviewed as provided in section 103.

Subsection 704 (a): Amends subsection 105(f) of the FISA as follows:

(f) Notwithstanding any other provision of this title, officers, employees, or agents of the United States are authorized in the normal course of their official duties to conduct electronic surveillance not targeted against the communications of any particular person or persons, under procedures approved by the Attorney General, and which, except as otherwise provided in paragraph (4), is intended solely to --

Subsection 704(b): New provision in subsection 105(f) of the FISA as follows:

"(4) Notwithstanding any other provision of this subsection, any information acquired under this subsection which indicates a threat of death or serious bodily harm may, with notice to the Attorney General, be retained and disseminated to appropriate law enforcement or security agencies."

INTELLIGENCE AUTHORIZATION ACT FOR
FISCAL YEAR 1982
COST ANALYSIS

TITLE I
INTELLIGENCE ACTIVITIES

Section 101: Fiscal Year 1982 authorizations are contained in the classified Schedule of Authorizations.

Section 102: Cost analysis not applicable.

Section 103: Cost analysis not applicable.

Section 104: Cost analysis not applicable.

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TITLE IV
TECHNICAL PROVISIONS

Section 401: Cost analysis impossible to determine.

Section 402: Technical compliance with section 607 of P.L. 93-344 only; cost analysis not applicable.

Section 403: Removal of obsolescent statutory language; will not result in additional expenditures.

Section 404: Cost analysis not applicable.

TITLE V

PROMOTING EFFECTIVE PERFORMANCE
OF INTELLIGENCE FUNCTIONS

Subsection 501(a): Estimated cost is less than \$500,000
in each of the next five fiscal years.

Subsection 501(b): Expected to result in long-run cost
savings.

Section 502: Estimated cost is considerably less than
that estimated for subsection 501(a).

TITLE VI

PROTECTION OF INTELLIGENCE
PERSONNEL AND INSIGNIA/
PROHIBITION OF FALSE
REPRESENTATION

Section 601:	No programmed expenditures contemplated.
Section 602:	No programmed expenditures contemplated.
Section 603:	No programmed expenditures contemplated.

TITLE VII

AMENDMENTS TO THE
FOREIGN INTELLIGENCE
SURVEILLANCE ACT

Section 701: Cost analysis not applicable.

Section 702: Cost analysis not applicable.

Section 703: Cost analysis not applicable.

Section 704: Cost analysis not applicable.